



J. Albert Johnson talks with Linda Wojas, mother of Pamela Smart. "Smart's conviction was an outrage," Johnson says.

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A lawyer gets Smart, moves into the limelight

By Charles E. Claffey
GLOBE STAFF

For 34 years, J. Albert Johnson practiced law the old-fashioned way: He was solid, steady, maybe even a little bit dull.

Other attorneys made names for themselves. They were flamboyant, dramatic, always on the nightly news with courtroom histrionics. Not Johnson. He plugged away doggedly, developing a sound if unspectacular national reputation for aggressiveness, competence and meticulous attention to detail. Even as his former colleague F. Lee Bailey made the talk-show circuit, Johnson stayed away from the cameras.

Then Pamela Smart came along.

Now Johnson, as Smart's lawyer, has slipped firmly and inexorably into the limelight and — finally — out from

underneath Bailey's shadow. Today he will continue his argument before a New Hampshire court in his effort to obtain a new trial for Smart, convicted as an accomplice in the slaying of her husband, Gregory Smart.

The destinies of Johnson and Bailey have been intertwined for most of their lives. They both grew up in Waltham, and joined the Marines at the same time in the 1950s — Johnson as a ground officer and Bailey as a flier. While Bailey was studying for his law degree at Boston University, he worked as an investigator for Johnson, who had begun practicing after graduation from Boston College Law School.

Johnson collaborated with Bailey on many big cases in the 1970s, including the trials of Patty Hearst and Capt. Ernest Medina, charged with participation in the My Lai Massacre in Viet-

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nam. Usually, it was Bailey who received most of the headlines and credit for their collaborations.

"Bailey has the most magnificent intellect of anyone I've ever known," says Johnson of his former partner, "and he is my best friend."

Some legal observers contend that Bailey owes much of his success to the behind-the-scenes work of the diligent Johnson.

"Al made Lee Bailey look good for many years," says one Boston-area attorney of Johnson. "He's a demon for detail, knows the law inside and out, and is a man of absolute integrity."

In 1984, the Damon-Pythias collaboration metamorphosed into an attorney-client relationship: Johnson represented Bailey at his trial in San Francisco on charges of driving while intoxicated, the only DWI trial ever to have been televised nationally. Bailey was cleared of the charge.

But since Bailey headed south to Florida several years ago, Johnson has established himself independently as one of the top half-dozen or so courtroom lawyers in Boston. His firm, Johnson, Mee & May, occupying offices in Charles River Park, is a 42-employee operation that includes 34 lawyers and six investigators.

"He's a highly competent defense lawyer who in recent years has become an extraordinary expert on driving-under cases. He's an enormously hard worker who is not flashy," says another veteran attorney of Johnson. One of Johnson's celebrated cases of that kind was the trial of Massachusetts Superior Court Judge Joseph S. Mitchell Jr. on drunken driving charges, of which Mitchell was acquitted.

The walls of the waiting room of Johnson's law offices are adorned with a host of photographs of the lawyer with prominent politicians and such entertainment-field celebrities as Sylvester Stallone. There are many of Johnson and Lee Bailey; one of Johnson and Patty Hearst, and more than a few of Johnson at the controls of a helicopter and a fixed-wing aircraft.

Johnson is a short, stocky, affable man who explains his collection of celebrity photographs by saying forthrightly: "I think clients have a right to know my areas of success. It's not an exercise in self-aggrandizement."

Since the day he agreed to pursue Pamela Smart's appeal, Johnson said in a recent interview in his office, "I have been convinced more every day that her trial was a travesty of justice." He was attracted to the case because of "my outrage as an individual and as an officer of the court and as someone who cares about the perception of justice."

On July 30, in the Rockingham County Superior Court in Exeter, N.H., Johnson filed two motions for a new trial for his client. He charged in one motion that a juror in the Smart accomplice-to-murder trial



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J. Albert Johnson and Pamela Smart's mother, Linda Wojas, at New Hampshire State Prison for Women.

made tape recordings based on recollections and notes as the trial progressed and recently offered to sell them for \$25,000 to Smart's new defense team.

In addition to the misconduct motion, Johnson filed a claim of jury impairment, which charges that Judge Douglas Gray erred in not granting a change of venue for the highly publicized trial, in not granting a continuance to allow publicity to diminish, and in not sequestering the jury during the trial or deliberations.

Judge Gray ruled on Aug. 2 that a juror did nothing improper when she taped her recollections of the trial.

"Pam Smart's conviction was an outrage," Johnson said at a news conference on the courthouse steps after he filed his motions. He called the conduct of the trial "the worst I have seen in my legal career."

During the interview, Johnson said he believes that the judge's failure to sequester the jury "seems to guarantee reversal."

He then explained his views about "the very serious controversy in the courts today that centers on which of the government guarantees is more important: the right of the public to know about the judicial system - the First Amendment - and the right of the individual to have a fair trial - the Sixth Amendment."

Johnson believes that it is "imperative that the press and public have absolute oversight into the workings of the judicial system because what we have seen recently is a destruction of this system brought on by secrecy, which is almost always unwarranted. The exceptions are national security and the rights of children. The media, both print and electronic, can report freely on highly visible or important court pro-

ceedings without interfering with due process, which must be accorded to defendants."

He adds that three rules must be complied with: media presence can never distract the trier of fact from evidence; the media comment, either as news story or editorial, can never be conveyed in a fashion that sets out facts prior to a jury determination. That is to say, jurors cannot be exposed to these opinions; judges, lawyers and law enforcement officers must adhere to longstanding laws prohibiting them from commenting on expected evidence prior to trial.

"All three of these rules are equal," Johnson says, "but the one breached most occurs within my own profession - commenting on evidence prior to trial."

Johnson notes that the Smart case resembles the case of Cleveland's Dr. Sam Sheppard - successfully appealed by Johnson's partner F. Lee Bailey - in which, following a trial conducted in a carnival atmosphere, Sheppard was convicted of murdering his wife. Sheppard spent 10 years in jail before his conviction was reversed and he was acquitted in a new trial.

Johnson also mentioned the Patty Hearst trial, charging that then US Attorney General William Saxbe "breached his oath of office by commenting prior to the trial that Patty Hearst was nothing more than a common criminal."

Johnson is a law-and-order advocate who abhors "the appalling lack of support for law enforcement in Massachusetts. There is no other state where police officers are regarded with such a lack of respect."

Thus, it is no surprise when he adds that his firm represents more police officers than any other law firm in the commonwealth.

Johnson has a background in law enforcement. After graduation from Northeastern University (he completed a four-year course in two years), he went to work in the law enforcement division of the state's Registry of Motor Vehicles. "In that job I found an utter lack of public support for law enforcement and I decided I could best try to change that by becoming a public advocate for support." And so he has.

Another area that concerns Johnson is the state's court system. "Massachusetts has the worst courts in terms of physical facilities that exist in the nation. It's more difficult to obtain a fair trial because of the inherent deficiencies in a system that lacks adequate personnel and physical facilities."

He argues that Massachusetts judges are "underpaid and lacking resources. There are cases in Massachusetts that will never be tried because of this."

Johnson lives in Hingham with his wife, Suzanne, who is the financial officer of his law firm. He has five children, one of whom, David, is a pilot for Lee Bailey in Florida. He also has a summer home in Centerville on Cape Cod.

One friend of Johnson describes him as the legal equivalent of "the old family doctor in medicine. People call him at any hour when they're in trouble, and he's always available, telling them what to do - and what not to do."